



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0492]

RIN 1625-AA00

Safety Zone; Portland Dragon Boat Races, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone in Portland, OR. This safety zone is necessary to help ensure the safety of the maritime public during the annual marine event and will do so by prohibiting unauthorized persons and vessels from entering the regulated area unless authorized by the Sector Columbia River Captain of the Port or his designated representatives.

DATES: This rule is effective [INSERT DATE OF PUBLICATION 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of Docket Number [USCG-2014-0492]. To view documents mentioned in this preamble as being available in the

docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on "Open Docket Folder" on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may submit comments identified by docket number USCG-2014-0492 using any one of the following methods:

- (1) Federal e-Rulemaking Portal:

<http://www.regulations.gov>

- (2) Fax: 202-493-2251.

- (3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Kenneth Lawrenson, Waterways Management Division, Marine Safety Unit Portland, Coast Guard; telephone 503-240-9319, e-mail msupdxwwm@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

An interim rule was used for the establishment of the 2014 Portland Dragon Boat Races and was published as USCG-2014-0492 in the Federal Register on October 21, 2014 with a comment period that ended on November 20, 2014. Three comments were received and no requests for a public meeting were received by the Coast Guard. All three comments received were generally supportive of the event. The comments received and the answers to comments are covered in the "Discussion of Comments, Changes and the Final Rule" section, below.

B. Basis and Purpose

Coast Guard Captains of the Port are granted authority to establish safety zones in 33 CFR 1.05-1(f) for safety and environmental purposes as described in 33 CFR Part 165.

Regattas create the potential for complex navigation situations because of the large number of vessels that congregate near the event. In addition, the dragon boats involved in this regatta are not power driven vessels and consequently are limited in their ability to maneuver. This safety zone is necessary in order to ensure the safety of the maritime public in the proximity of marine event sites and reduce the risk of collision with the non-power driven vessels involved in the race.

C. Discussion of Comments, Changes and the Final Rule

As discussed above, in the "Regulatory History and Information" section, there were three comments received on the Temporary Interim Rule, published as USCG-2014-0492, for the 2014 Portland Dragon Boat Races. The first commenter was a cat and stated that they agreed that the safety of people is important. The Coast Guard agrees. The second commenter asked, "What is a dragon boat and where can I find one?" A dragon boat is a vessel propelled with paddles by a large crew and used for racing. Sources for these vessels are beyond the scope of this rulemaking. The third commenter recommended that the safety zone cover

a larger area, based on the event's recent rise in popularity in the Portland area. The Coast Guard agrees that the Portland Dragon Boat Festival has seen recent increases in attendance and participation; however the racing route has remained unchanged. Given that race managers limit the number of participants on the water at any specific time, the Coast Guard has determined that the current safety zone is adequate to protect the interests of safe navigation.

D. Discussion of the Final Rule

The Final Rule finalizes the interim Safety Zone in the Thirteenth Coast Guard District without changes.

This regulated area is located along the western side of the Willamette River extending from Tom McCall Waterfront Park between the Hawthorne and Marquam Bridges, Portland, OR. The center span of the Hawthorne and Marquam bridges will be left open to allow commercial traffic through during the event. This event will take place from 8:00 a.m. to 6:00 p.m. on the first or second Saturday and Sunday of September. The zone is short in duration and will allow waterway users to enter or transit through the zone when deemed safe by the Captain of the Port or his designated representative.

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard has made this determination based on the fact that the regulated area created by this rule will not significantly affect the maritime public because vessels may still coordinate their transit with the Coast Guard in the vicinity of the safety zone. Additionally, the Safety Zone which will be enforced is minimal in duration.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities"

comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard did not receive comments from the Small Business Administration on this rule.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: the owners and operators of vessels intending to operate in the area covered by the safety zone.

The rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) the regulated area is limited in size; (ii) the official on-scene patrol may authorize access to the regulated area; (iii) the regulated area will affect a limited geographical location for a limited time; (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly; and (v) vessel traffic will be able to pass the safety zone with permission from the COTP representative.

If you think that your business, organization, or

governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not

retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order

13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of

Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the creation of one safety zone around a marine event to protect the maritime public. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

For the reasons discussed in the preamble, the interim rule amending 33 CFR Part 165 which was published at 79 FR 62829 on October 21, 2014 is adopted as a final rule without change.

Dated: April 17, 2015.

D. J. Travers,
Captain, U.S. Coast Guard,
Captain of the Port,
Sector Columbia River.

[FR Doc. 2015-11018 Filed: 5/13/2015 08:45 am; Publication Date: 5/14/2015]